(1)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 44 /2006

PETITIONER :- **SHEODUTTA PRASAD BHARTIYA**
S/o Brijanandan Prasad Shukla, aged about 69 years, R/o Gram Misda, Post Misda, Tehsil Navagarh, District-Janjgir-Champa [C.G.]

VERSUS

RESPONDENTS :-

1] **STATE OF CHHATTISGARH**
Through- Secretary,
Tribal Welfare Department,
Mantralaya, D.K.S. Bhavan,
Raipur [C.G.].

P.R. No. 6446/05
Presented by: Mr. Gaurav Ishwar
dated 19/12/05

2] **COLLECTOR,**
District -Jashpurnagar [C.G.].

3] **COMMISSIONER**
Tribal Welfare Department,
Raipur [C.G.]

4] **DIRECTOR,**
Tribal Welfare Department
Raipur [C.G.]

5] **PRINCIPAL**
Government Boys Higher Secondary School, Jashpurnagar,
District- Jashpur [C.G.].

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6] **JOINT DIRECTOR**
Accounts & Pension Department
Bilaspur Division, Bilaspur [CG.].

7] **STATE OF MADHYA-PRADESH**
Through- Secretary,
Tribal Welfare Department,
Vallabh Bhawan, Bhopal [M.P.]

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.NO. 44/2006 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5-1-2006

Shri Gurudev Sharan, counsel for the petitioner.

Shri A.S. Kachhawaha, Dy. Govt. Advocate, for the State of Chhattisgarh.

Heard.

Learned counsel for the petitioner submits that although the petitioner retired in the year 1996 but no retiral dues have been paid to him.

Learned counsel for the State was asked as to why the retiral dues have not been paid. He submitted that it is not a case where the petitioner has been retired.

Learned counsel for the petitioner was asked to refer to the retirement order. On such query being made, counsel referred to the document Annex.P/1, which is an application dated 25/1/1982 submitted by the petitioner to the Director, Tribal Welfare Department, Govt. of Madhya Pradesh, Bhopal wherein it has been mentioned that the petitioner had applied for leave w.e.f. 1/11/1980 to 30/4/1982 and the leave not due be sanctioned. The leave was not allowed.

Learned counsel for the petitioner submitted that on 1/5/1982 the petitioner submitted his joining report to respondent no.5, which was not allowed. It is further submitted that on 8/6/1982 (Annex.P/3) and 4/9/1982 (Annex.P/4) the petitioner submitted the representations to the Director, Tribal Welfare Department, Govt. of Madhya Pradesh, Bhopal regarding assigning of duties but no positive reply has been given to him. It is also submitted that the petitioner again submitted a representation (Annex.P/5) dated 4/9/1983 to the Director, Tribal Welfare Department, Govt. of Madhya Pradesh, Bhopal but of no vain. It is also submitted that thereafter the petitioner made several oral requests but those were also not considered.

The contention raised is that no explanation was called for from the petitioner and no disciplinary action or departmental enquiry was commenced against the petitioner for remaining absent from duty. Even no show cause notice

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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was issued against him. The prayer is made for treating the period of leave as service period and also grant pension and retiral dues on attaining the age of 60 years in the year 1996.

Learned counsel for the State of Chhattisgarh vehemently opposed the prayer. It is submitted that on completing the age of 60 years in the year 1996, he assumed that he got retired from the service and he claimed for pension and the retiral dues, which is not permissible. It is submitted that the documents filed by the petitioner show that after the year 1983 he kept quiet for about 22 years and now in the year 2005 he filed the instant petition claiming the relief. It is also submitted that there is nothing on the record that the petitioner made several oral requests to the authorities concerned.

Having considered the facts and circumstances of the case and material on record, it is amply clear that on attaining the age of 60 years the petitioner himself claimed to be retired and prayed for retiral dues. The documents show that for about 22 years from the year 1983, the petitioner has not even approached the authorities concerned or availed the remedy available under the law. The pleadings and the documents filed at present do not make out a case for issuance of a writ in exercise of jurisdiction under Article 226/227 of the Constitution of India. The petitioner however, if so desire, may make a representation to the concerned authorities and if such a representation is made, it is open the authorities to consider and decide the same in accordance with law.

With the aforesaid observations and directions, he petitions is disposed of.

Sd/-
Fakhruddin
Judge

H/P

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3/12/09